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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,402	06/04/2001	Jason Dove	CLX023	4498

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EXAMINER

JONES, PRENELL P

ART UNIT PAPER NUMBER

2667

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,402

Applicant(s)

DOVE ET AL.

CA

Examiner

Prenell P Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 22-40 and 57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-21 and 41-49 is/are allowed.
- 6) ☐ Claim(s) 50-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/4/05.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-21 and 41-56 are drawn to transmitting and organizing traffic associated with a fixed line rate and based on 6 milliseconds super-frame of classified in class 370, subclass, 463, 354 and 458.
 - II. Claims 22-40 and 57 are drawn to signal encoded messages that include contiguous bytes and contiguous nibbles of signaling, classified in class 712, subclass 1, 16, 38, 43, 202, 212-217 and 300.
2. Because these inventions are distinct for the reasons given above and the search required for Groups I is not required for Group II and visa versa, restriction for examination purposes as indicated is proper.

Inventions Group I and Group II are related as combination and sub-combinations. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the sub-combinations as claimed for patentability, and (2) that the sub-combinations has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the sub-combination as claimed because

The sub-combinations have separate utility such as encoded messages that include contiguous bytes and contiguous nibbles of signaling.

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Inventions Group I and Group II are related as sub-combinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group II has separate utility such as encoded messages that include contiguous bytes and contiguous nibbles of signaling. See MPEP § 806.05(d).

3. During a telephone conversation with Mr. Omkar Suryadevara on March 8, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-21 and 41-56. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22-40 and 57 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 52-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicant regards as the invention.

Regarding claim 52, Applicant is claiming in line 22, "**rebooting** when said monotonically changing byte reaches", which is not clear to Examiner exactly what Applicant is rebooting. Claims 53-56 depend on claim 52; therefore, claims 53-56 are rejected for the same reasons that claim 52 is rejected.

Regarding claim 54, Applicant is claiming in line 2, "**changing a bit the byte** denoting configuration state", which is unclear to Examiner exactly what Applicant is claiming.

Allowable Subject Matter

3. Claims 1-21 and 41-51 are allowed over prior art.
4. Claim 52 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
5. Claims 53-56 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: Although the cited art discloses switching of synchronous and asynchronous traffic wherein the architecture includes rate adjustable and fixed rate back-plane as associated in a data communication and telecommunication environment, whereby the architecture includes traffic management among a plurality of line cards and switch

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cards, shelf units associated with line cards and switch cards, line rate is measured in Gigabits per second they fail to teach or suggest organizing and allocating traffic among channels which operate at a fixed line rate of about 3.1104 Gbps 6 millisecond superframes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

March 9, 2005


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

3/14/05